
OLR Bill Analysis

sSB 295

AN ACT AUTHORIZING MUNICIPALITIES TO COLLECT THE MARIJUANA AND CONTROLLED SUBSTANCES TAX.

SUMMARY:

This bill allows a municipality with a population under 75,000 to collect and retain unpaid state taxes on illegal marijuana and controlled substances seized during an arrest or found during a search. Currently, taxes on marijuana and controlled substances are collected by the Department of Revenue Services (DRS). By law, the tax is:

1. \$3.50 per gram, or portion thereof, of marijuana (1 pound is 454 grams);
2. \$200 per gram, or portion thereof, of a controlled substance sold by weight; and
3. \$2,000 per 50 dosage units, or portion thereof, of a controlled substance not sold by weight.

The bill requires municipalities opting to collect the tax to appoint hearing officers and establish, by ordinance, a hearing process. It gives these municipalities the authority to examine dealers' (see BACKGROUND) records, marijuana, and controlled substances to determine whether taxes have been paid.

Under the bill, unpaid taxes owed to a municipality constitute a lien on any real property the dealer has in the municipality. These liens are treated similarly to property tax liens.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2013

TAX COLLECTION

The bill allows any municipality with a population under 75,000 to collect the state-imposed tax on marijuana and controlled substances seized within the municipality by a law enforcement officer as a result of a lawful (1) arrest of a dealer or (2) search of a dealer's personal or real property. The municipality may collect the tax if the:

1. tax is due and payable;
2. municipality's chief of police, or chief elected official if a municipality does not have an organized police department, notifies the DRS commissioner of its intent to collect the tax; and
3. municipality, before collecting the tax, appoints one or more hearing officers and establishes, by ordinance, a hearing process for aggrieved dealers.

Currently, all tax is collected by DRS and retained by the state. The bill allows a municipality to keep any tax it collects.

HEARING

The bill requires the chief elected official to appoint one or more hearing officers, other than police officers or police department employees, to hear aggrieved dealers' petitions. The municipality must adapt and adopt the timeline and requirements established in statute for appealing an admissions or dues tax assessment (CGS §§ 12-553 and 12-554). In those appeals, an aggrieved party has 60 days to appeal an assessment to the DRS commissioner and may appeal the commissioner's decision to the Superior Court.

EXAMINING RECORDS

Under current law, the commissioner and his authorized agents are allowed to:

1. examine the books, papers, and records of a dealer to determine whether the imposed tax has been paid;
2. assess a tax deficiency if an examination shows a dealer has not purchased sufficient stamps to cover the receipts and sales or

other disposition of any marijuana or controlled substance; and

3. examine marijuana or controlled substances upon the premises where they are kept to determine whether the substances bear the proper tax stamp.

The bill extends this authority to any municipality collecting the tax and its tax collector.

TAX LIENS

The bill specifies that any unpaid tax, penalty, or interest due to a municipality constitutes a lien against any real property the dealer owns in the municipality. It allows each lien to be continued, recorded, and released in the same manner as property tax liens. Under the bill, such liens take precedence over all other liens filed after October 1, 2013, and encumbrances, except taxes, and may be enforced in the same way as property tax liens.

BACKGROUND

The tax on dealers, which varies for marijuana and controlled substances, is due when a dealer acquires or possesses these substances. A stamp issued by the DRS commissioner and affixed to these substances indicates payment of the tax.

By law, a dealer is a person who illegally manufactures, produces, ships, transports or imports into the state, or acquires or possesses:

1. over 42.5 grams of marijuana;
2. at least seven grams of a controlled substance sold by weight; or
3. 10 or more dosage units of a controlled substance not sold by weight.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/13/2013)

